IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3837 OF 2005

Hiraman Shankar Shirsat ...Applicant

Versus

Prakash Bhimrao Londhe & Anr ...Respondents

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Mr. H.S. Shirsat, Applicant in person.

Mr. B.H. Mehta, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 19TH SEPTEMBER, 2005

P. C.:-

1. Heard the applicant i.e. original complainant who is present in person and the learned A.P.P. for the State.

2. The applicant has filed criminal complaint for the offence under Sections 403, 500, 504 and 506 r.w. 34 of I.P.C. The said complaint was filed before the learned J.M.F.C. Indapur and it was numbered as Case No. 1136 of 2001.

3. The applicant had preferred an application for transfer of the said case from the Court of Indapur to the Court of Pune, before the Sessions Court at Pune. The Sessions Court by order dated 7.3.2005

rejected the application for transfer of the said case. Being aggrieved by the said order, the applicant has preferred the present application.

4. It is the submission of the applicant that the accused Nos. 1 and 2 being high ranking officers of Indapur Sahakari Sakhar Karkhana, are exerting influence over the witnesses in the said case. They have created hurdles in the service on summons to the witnesses. In respect of this submission it is seen that the Roznama shows that witnesses appeared in the trial court in response to the witness summons issued to them. Thus, this fact shows the stand taken by the applicant that the accused persons are creating hurdles in the service of summons to the witnesses, to be baseless. Thereafter, the applicant has submitted that there has been delay in issuing summons to the witnesses. The Roznama shows that in February, 2004 the case was for hearing. The case is of the year 2001, before Feb.2004 the witness summons had been duly served. Looking at the pendency of matters in normal course also, it takes about two and half or three years for a case of this nature to reach the hearing stage. Thus, it does not appear that there has been delay in issuing summons to witnesses.

5. Thereafter, the applicant submitted that though

the case is of the year 2001, it has not yet been concluded. He has submitted that on many occasions, accused persons remained absent and on other occasions the witnesses remained absent, hence, the trial court is not able to complete the trial. Thus, he has prayed that case may be transferred. It is true that on few occasions the accused persons remained absent. However, it is seen that the applicant i.e. original complainant has also remained absent on many occasions. It is seen that on 4.3.2004, 30.4.2004, 17.11.2004 and 11.12.2004, the complainant has remained absent. The applicant states that on those dates he was not available as he was appearing for his LL.B. examination in April, 2004. It is seen that LL.B. examination was in the month of April, 2004 whereas Roznama clearly shows that witnesses were present in the trial Court on 26.2.2004, 18.3.2004, 7.4.2004 and 17.5.2004 etc. when the complainant was absent on those dates in the trial Court. It is only on account of absence of the complainant on these dates in the trial Court that witnesses could not be examined. Thus, the applicant cannot raise any grievance that witnesses did not remain present or witnesses were not being examined.

6. Lastly, it was contended that the applicant apprehends that he will not get a fair trial from the Court at Indapur. This apprehension is based on the

fact that on 26.2.2004 he had attended the Court, however, thereafter he had to leave the Court due to the ailment of his sister-in-law, hence, an application for adjournment was sought for. However, the application for adjournment was rejected and costs of Rs.300/- had been imposed on the applicant. On account of this, the applicant apprehends that trial would not be a fair trial. I do not find it necessary to go into this submission as it is an admitted fact that the Judge who passed the order dated 26.2.2004 is no longer presiding over the said Court. The said Judge has since been transferred. The applicant has categorically stated that he has no grievance as far as the present Judge is concerned. In this view of the matter, I am of the opinion that this ground is also not a good ground for transfer. Thus, in my opinion, no ground has been made out for transfer of the case from Indapur to Pune.

7. Application is rejected.

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